IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

Crl.MC.No. 1841 of 2007()

CRIME NO. 233/07 OF HARBOUR POLICE STATION
CMP.1561/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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PETITIONER/PETITIONER:

BIJU, AGED 34, S/O. JOY
PAMPUMODIYIL VEETTIL
NEAR NADAKAVU TEMPLE,
UDAYAMPEROOR KARA
NADAMA VILLAGE.

BY ADV. SRI.P.V.GEORGE(PUTHIYIDAM)

RESPONDENT/RESPONDENT:

STATE OF KERALA (SUB INSPECTOR OF POLICE
HARBOUR POLICE STATION)
REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1841 of 2007

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Dated this the 7th day of June, 2007

O R D E R

The petitioner is the second accused in a prosecution under Section 379 r/w. 34 I.P.C. He remains in custody from 26.5.2007. His application for bail was allowed by the learned Sessions Judge as per Annex.A order subject to conditions. It was directed that he must execute a bond for Rs.15,000/- with two solvent sureties, of which one shall produce a solvency certificate. The petitioner claims to be aggrieved by this condition in Annex.A order.

2. To save time, the petitioner appeared before the learned Magistrate and offered that one surety shall deposit the amount of Rs.15,000/- so that the said condition of production of solvency certificate may be dispensed with. The learned Magistrate, by the impugned order, a copy of which is produced as Annex.B, took the view that in view of the specific directions of the Sessions Court, the Magistrate cannot accept the deposit in lieu of the solvency certificate.

3. The learned counsel for the petitioner submits that Annex.A or B or both may be set aside and there may be a direction to the learned Magistrate to receive the amount of Rs.15,000/- which one of the sureties has offered to deposit and dispense with the condition of production of solvency certificate by him.

4. I reckon the request by the learned counsel for the petitioner as most reasonable and genuine. Obviously the learned Sessions Judge has imposed the condition that one of the sureties must produce solvency certificate to be doubly assured that at least one of them is solvent. If that person offers to deposit Rs.15,000/- there can be no rhyme, reason or logic in insisting that he must produce the solvency certificate itself.

5. Be that as it may, I am satisfied that interests of justice will be served eminently by directing that if one of the sureties deposits an amount of Rs.15,000- it shall be reckoned as equal or better than his production of solvency certificate and the learned Magistrate shall permit the surety to execute the bond.

6. This Crl.M.C. is accordingly allowed. The above directions are issued.

7. Hand over copy of the order to the learned counsel for the petitioner forthwith as the petitioner is found to be in custody from 26.5.2007.

(R. BASANT)
Judge

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